BILL NO. S-80-02-28

SPECIAL ORDINANCE NO. S-23-80

AN ORDINANCE approving an Agreement to Purchase Real Estate by Lee M. Heath and Derald Dafforn.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement to Purchase Real Estate dated January 29, 1980, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works, and Lee M. Heath and Derald Dafforn for:

WEST 23' OF LOT 11, COLLEGE ADDITION, known as 1235 Maumee Avenue

at a price of $125.00, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof, is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be effective upon passage and approval by the Mayor.

Councilman

Approved as to form and legality,

February 5, 1980

John E. Hoffman
City Attorney

Read the first time in full and on motion by Stier, seconded by Eisbart, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____ M.,E.S.T.

DATE: 2-26-80

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Stier, seconded by Eisbart, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9	0			
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
NUCKOLS	✓				
SCHMIDT, D.	✓				
SCHMIDT, V.	✓				
SCHOMBURG	✓				
STIER	✓				
TALARICO	✓				

DATE: 3-11-80

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) (APPROPRIATION) ORDINANCE ~~(RESOLUTION)~~ No. S-23-80 on the 11th day of March, 19 80.

ATTEST: (SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Vivian G. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of March, 19 80, at the hour of 3:00 o'clock P. M.,E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 13th day of March 19 80, at the hour of 9 o'clock A M.,E.S.T.

Winfield C. Moses Jr.
WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-80-02-28

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN ORDINANCE approving an Agreement to Purchase Real Estate by Lee H. Heath and Derald Daffron

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JAMES S. STIER, CHAIRMAN

MARK GiaQUINTA, VICE CHAIRMAN

BEN EISBART

PAUL M. BURNS

DONALD J. SCHMIDT

3-11-80

DATE

CONCURRED IN

CHARLES W. WESTERMAN, CITY CLERK

Form Approved By Council
Allen County Indiana Bar Assoc. 2/12/80
Fort Wayne Board of Realtors.

AGREEMENT TO PURCHASE REAL ESTATE

68-197-7 2/14/80

TO: BOARD OF PUBLIC WORKS, CITY OF FORT WAYNE, INDIANA OWNERS DATE: JAN. 29, 1980

The undersigned (hereinafter called "Buyer") offers to purchase, upon the terms and conditions set forth below, the real estate in Allen County, Indiana, whose legal description is:

WEST 23' OF LOT 11, COLLEGE ADDITION

Such real estate is hereinafter called the "Real Estate". Its street address is 1235 MAUMEE AVENUE

TERMS AND CONDITIONS

The terms and conditions of this Agreement are as follows:

1. Purchase Price and Terms. The purchase price shall be $ 125.00, to be paid in accordance with the terms of Paragraph A (insert A, B, C or D):

   A. *Cash*. The entire Purchase price shall be paid in cash.

   B. *Cash With New Mortgage*. The entire purchase price shall be paid in cash, subject, however, to Buyer's being able to obtain within _____ days from date hereof a _____ mortgage loan on the Real Estate for not less than $ _____. If Buyer is unable to obtain such financing within that time, this Agreement shall then terminate and any earnest money deposited hereunder shall be refunded to Buyer without delay. Buyer agrees to make immediate application for such financing. If the financing is subject to discount points Seller agrees to pay such discount points not to exceed $ _____.

   C. *Cash, Subject To Existing Mortgage*. Buyer shall pay approximately $ _____ in cash and assume and agree to pay the unpaid balance of and to perform the provisions of, an existing mortgage on the Real Estate held by _____ as mortgagee. Seller represents that the unpaid principal balance of such mortgage is approximately $ _____ as of _____, 19____. Buyer shall begin to pay such unpaid balance by paying the payment due _____, 19____. Transfer fees, if any, required by the mortgagee shall be paid by _____.

   D. *Land Contract*. Buyer shall pay $ _____ in cash, upon the execution of a land contract acknowladging payment of that sum and calling for the payment of the remainder of the purchase price in monthly payments of not less than $ _____ per month, including _____ % interest, computed _____, plus taxes and insurance. The land contract is to be written upon the Allen County Indiana Bar Association form.

   All earnest money paid under this Agreement shall be deducted from any payment required to be paid in at the closing.

2. Taxes and Assessments. Buyer shall assume and pay the taxes upon the Real Estate due and payable in (May) (November), 1980, and all subsequent taxes. If the tax rate is not finalized, the last rate and value shall be used in this computation. Seller shall pay any assessments or charges upon or applying to the Real Estate for public or municipal improvements or services which on the date of this Agreement are constructed or installed on or about the Real Estate or are serving the Real Estate. *** APPROVAL BY CITY COUNCIL

3. Possession. Possession of the Real Estate shall be delivered to Buyer on or before *** . Rents, if any, shall be prorated as of the date of closing. Insurance shall be (prorated) (cancelled) as of the date of closing. Seller will pay all charges for utility services furnished the Real Estate until the date possession is delivered.

4. Improvements and Fixtures. This offer includes all improvements and permanent fixtures used in connection with the Real Estate, including but not necessarily limited to electrical, gas, heating and plumbing fixtures, screens, screen doors, storm windows, shades, venetian blinds, drapery hardware, awnings, attached carpeting, linoleum, radio or television antennae, trees, shrubs, flowers, fences, and _____, if any, now in or on the Real Estate and the same shall be fully paid for and free of all liens and encumbrances at the time of closing, unless otherwise specified and agreed by Buyer.

5. Use. Buyer represents that his intended use of the Real Estate requires a zoning classification of _____, and on the date of closing the Real Estate shall be in a district permitting such use.

6. Earnest Money. As earnest money, Buyer deposits with the Seller's agent named below the sum of $ _____. Upon acceptance of this offer by Seller, Buyer will deposit with such agent additional earnest money in the sum of $ _____.

7. Acceptance. If this offer is accepted, it shall constitute an agreement between Buyer and Seller, binding and inuring to the benefit of them and their respective heirs and personal representatives. If, after acceptance, Buyer fails to complete the purchase as agreed, all earnest money shall be forefeited to Seller as liquidated damages and Seller shall have no other remedy at law or in equity.

   If this offer is not accepted in writing on or before _____, 19____, it shall then expire, and all earnest money shall be returned to Buyer without delay.

8. Other Terms:

9. Survey. Seller shall furnish at Seller's expense a certificate of survey of the Real Estate showing the dimensions thereof and the location of all improvements, building lines and easements as of the date hereof. The survey shall include the setting or locating of corner stakes or pins.

10. Abstract of Title. Prior to closing Seller shall furnish at Seller's expense a properly prepared Abstract of Title for the Real Estate, continued to a date after the date of this Agreement, disclosing a marketable title in Seller. Buyer will have the abstract examined by his attorney and will submit a legal opinion thereon without unreasonable delay. Seller will have a reasonable time to meet such requirements, if any, as may be necessary to render marketable his title to the Real Estate according to the Standards of Marketability of Abstracts of Title as adopted by the Allen County Indiana Bar Association.

11. Closing. This transaction shall be closed as soon as title to the Real Estate meets necessary legal requirements and Buyer obtains the necessary financing, if any, as hereinabove provided. At closing, Buyer shall make payment of the purchase price as provided in Section 1 above, and Seller shall deliver to Buyer a properly prepared and executed General Warranty Deed or Land Contract, conveying or contracting to convey the Real Estate and all improvements thereon in the same condition they now are, usual wear and tear excepted. The deed shall be accompanied by a Closing Affidavit. Seller shall assume the risk of loss or damage to the Real Estate and all improvements thereon until the delivery of the General Warranty Deed or Land Contract. In the event the Real Estate and all improvements thereon cannot be conveyed or contracted to be conveyed to Buyer in substantially their present condition, usual wear and tear excepted, this Agreement, at Buyer's election, shall not be binding upon Buyer, and earnest money deposited hereunder shall be returned to Buyer without delay.

12. Miscellaneous. Buyer has personally inspected and examined the Real Estate and makes this offer in good faith. All the terms and conditions are stated herein, there being no verbal agreements. Headings are inserted for convenience only and do not constitute a part of this Agreement. Whenever necessary and where the context admits, the singular terms "Buyer" and "Seller" and their related pronouns include the plural, the masculine, and the feminine.

BUYER: X Ida M Heath BUYER: Gerald Daffron

ADDRESS: X 1040 WALTERS PHONE: X 749-4121

ACCEPTANCE BY SELLER

The undersigned Seller accepts the above offer and agrees with its terms and conditions. Seller also agrees to pay its agent named below a commission of $ _____, which shall be deducted from the first payment made to Seller. Seller also authorizes its agent to hold all money deposits in escrow until the closing of this transaction.

This acceptance is subject, nevertheless, to the conditions, if any, immediately following:

X _____

X _____

DATE: _____, 19____.

SELLER: _____ SELLER: _____

ADDRESS: _____ PHONE: _____

AGENT OF SELLER

As agent for Seller, the undersigned agent acknowledges receipt of earnest money deposited with him in the following amounts and on the dates indicated:

Date	Amount	Agent

Such earnest money is held in escrow and will be paid in accordance with the terms of the above agreement between Buyer and Seller.

REQUEST FOR ACTION

To: CITY ATTORNEY

From: (NAME, TITLE & DEPARTMENT) BOARD OF PUBLIC WORKS

APPROVED BY _____
(PERSON AUTHORIZED TO FORWARD LEGAL WORK)

DATE: FEBRUARY 5, 1980

SUBJECT: AGREEMENT TO PURCHASE REAL ESTATE - W 23' OF LOT 11, COLLEGE ADD.
(FILE SUBJECT DESIGNATION)

****

FILE # ASSIGNED BY RECORDS LIBRARIAN

4786

****

ACTION REQUESTED: PLEASE PREPARE AN ORDINANCE TO BE INTRODUCED IN COUNCIL ON FEBRUARY 26, 1980, APPROVING AGREEMENT TO PURCHASE REAL ESTATE BETWEEN BOARD OF PUBLIC WORKS, SELLER AND LEE M. HEATH AND DERALD DAFFORN, BUYERS FOR WEST 23' OF LOT 11, COLLEGE ADDITION.

(CONTINUE ON REVERSE SIDE, IF NECESSARY)

CC: CITY ATTORNEY (IF ORIGINAL REQUEST SENT TO ANOTHER ATTORNEY OUTSIDE CITY ATTORNEY'S OFFICE)

DEPARTMENT HEAD OF REQUESTING PARTY

EP

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT TO PURCHASE REAL ESTATE - W 23' LOT 11, COLLEGE ADDITION

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE AGREEMENT TO PURCHASE REAL ESTATE BETWEEN BOARD OF PUBLIC WORKS, SELLER, AND LEE M. HEATH AND DERALD DAFFORN, BUYERS, FOR THE WEST 23' OF LOT 11, COLLEGE ADDITION, LOCATED AT 1235 MAUMEE AVENUE, FOR THE PURCHASE PRICE OF $125.00

L-80-02-28

(AGREEMENT TO PURCHASE REAL ESTATE ATTACHED HERETO)

EFFECT OF PASSAGE SALE OF VACANT LOT OF NO USE TO THE CITY

EFFECT OF NON-PASSAGE PLACE THE ABOVE-DESCRIBED PROPERTY ON THE TAX ROLLS ONCE AGAIN. OTHERWISE, THE BOARD OF PUBLIC WORKS WOULD HAVE TO MAINTAIN SAID PROPERTY FROM YEAR TO YEAR, CLEARING SAME, CUTTING GRASS, ETC., CAUSING UNNECESSARY YEARLY EXPENSES

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) $125.00 TO BE PAID BY LEE M. HEATH AND DERALD DAFFORN, BUYERS, TO THE BOARD OF PUBLIC WORKS

ASSIGNED TO COMMITTEE Finance

EP